

JUDGE FURMAN

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LGC USA HOLDINGS, INC.,

Petitioner,

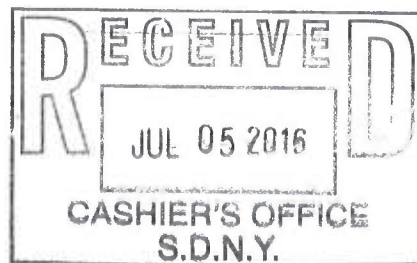
—against—

JULIUS KLEIN DIAMONDS, LLC,
JULIUS KLEIN GROUP HOLDINGS, LLC,
JULIUS KLEIN DIAMONDS, INC.,
KLEIN TENANCY,
KLG JEWELRY LLC,
SUNRISE VENTURE LLC,
MARTIN KLEIN,
MOISHE KLEIN,
MALKA KLEIN and
ABRAHAM DAVID KLEIN,

Respondents.

16 CV 5294

16 Civ. _____



PETITION TO CONFIRM ARBITRATION AWARD AND FOR ENTRY OF JUDGMENT

Petitioner LGC USA Holdings, Inc. ("LGC") hereby alleges as follows:

INTRODUCTION

1. By this petition, LGC seeks to confirm an arbitration award in its favor for \$111,854,210 (plus interest) and for certain other declaratory and injunctive relief (the "Award"). Having prevailed in arbitration, where the parties indisputably agreed to resolve their claims, LGC should have its award converted into a judgment without delay.

PARTIES

2. LGC is part of the world-renowned diamond business owned by Lev Leviev, a prominent entrepreneur, philanthropist and investor. LGC is incorporated in Delaware and its principal place of business is in New York.

3. The respondents (collectively, the “Kleins”) are individuals or companies affiliated with a diamond business controlled by respondent Martin Klein.

4. Julius Klein Diamonds LLC is a New York limited liability company with its principal place of business in New York. Its members of record include Julius Klein Group Holdings LLC and the “Klein Tenancy” a term used to describe the four individual respondents (Martin Klein, Moishe Klein, Malka Klein and Abraham David Klein), who collectively hold their interest in Julius Klein Diamonds LLC as joint tenants with a right of survivorship.

5. Julius Klein Group Holdings LLC is a Delaware limited liability company with its principal place of business in New York. Upon information and belief, its members are the four individual respondents, along with respondent Julius Klein Diamonds, Inc. and an individual named Azriel Garty. Julius Klein Diamonds, Inc. is a New York corporation with its principal place of business in New York. Upon information and belief, its shareholders are Martin and Malka Klein.

JURISDICTION AND VENUE

6. This Petition seeks confirmation of the Award pursuant to 9 U.S.C § 207 under the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the “New York Convention”), implemented by the United States under Chapter 2 of the Federal Arbitration Act, and codified at 9 U.S.C. §§ 201-208.

7. This Court has jurisdiction pursuant to 9 U.S.C. § 203 because LGC is seeking to enforce in the United States an award entered in Israel pursuant to Article I § 1 of the Convention and because the parties’ agreement to arbitrate and the Award fall under the Convention within the meaning of 9 U.S.C. § 202. The contractual relationship at issue involves property located abroad, envisages performance abroad, and has a reasonable relation with one or more foreign states (including Israel, the United Kingdom and South Africa).

8. The Court has personal jurisdiction over the defendants under Rule 4(k)(1)(A) of the Federal Rules of Civil Procedure because each of them (i) resides in New York (CPLR § 301), (ii) committed tortious acts in New York as described more fully below (CPLR § 302(a)(2)), and/or (iii) committed tortious acts outside New York that harmed LGC in New York and either (a) regularly does business in New York, or (b) expected that their conduct would have consequences for LGC in New York and derived substantial revenue from interstate or international commerce (CPLR § 302(a)(3)).

9. Venue is appropriate in this District under 28 U.S.C. § 1391(b) because (i) all the respondents are residents of New York and at least one resides in New York County, (ii) a substantial part of the events giving rise to the claim occurred in New York County, or, alternatively, (iii) the defendants are subject to this court's personal jurisdiction.

FACTUAL BACKGROUND

10. LGC and the Kleins agreed to become joint venture partners in three diamond businesses: Julius Klein Diamonds, LLC ("JKD"), KLG Jewelry LLC ("KLG"), and Sunrise Venture LLC ("Sunrise"). In October 2012, LGC exercised its contractual right to be bought out, but the Kleins refused to pay.

11. The contracts relevant to JKD and KLG each contain substantially identical arbitration clauses, stating: "Any controversy or claim arising out of or relating to this Agreement, the breach, termination or validity thereof or the engagement pursuant hereto, which cannot be resolved between the parties shall be settled by arbitration."

12. Accordingly, LGC initiated arbitration proceedings in May 2013 against the Kleins, primarily to recover its share of the three joint ventures.

13. The parties agreed, via an exchange of letters in November 2013, to include disputes over Sunrise in the arbitration on the same terms. In the Kleins' counterclaims in

arbitration, they confirmed that “disputes between the parties relating to the JK Companies” — a term defined to include Sunrise — “are subject to arbitration.”

14. On June 30, 2016 the arbitration panel awarded LGC \$111,854,210 (plus interest) and certain other declaratory and injunctive relief.

15. None of the grounds under the New York Convention for setting aside or modifying an award apply. The award is in all respects fully enforceable, and the Court should therefore promptly convert it into a judgment.

PRAYER FOR RELIEF

WHEREFORE, LGC hereby demands an Order:

- (a) Confirming the Award;
- (b) Entering judgment in favor of LGC and against the Kleins, jointly and severally, in the amount of \$111,854,210;
- (c) Granting LGC pre-judgment and post-judgment interest at 9% per annum as specified in the Award;
- (d) Granting LGC the declaratory and injunctive relief specified in the Award;
- (e) Granting LGC its costs and attorneys’ fees for this application; and
- (f) Such other and further relief as the Court may deem appropriate.

Date: New York, New York
June 30, 2016

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